

PT 02-38

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

FAITH BIBLE CONFERENCE ASSOCIATION

Applicant

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

A.H. Docket # 01-PT-0053

Docket # 01-48-06

Parcel Index # 16 23 300 007

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Matthew Potts of Whitney and Potts, Ltd., for Faith Bible Conference Association; Mr. Matthew Crain, Special Assistant Attorney General for the Illinois Department of Revenue.

Synopsis:

The hearing in this matter was held on January 15, 2002, to determine whether Knox County Parcel Index No. 16-23-300-007 qualified for exemption during the 2001 assessment year.

Mr. David Hartwig, director of Faith Bible Camp; Mr. Ricky Stufflebeem, ministry assistant; and Mr. Tim Manock, president of the board of Faith Bible Conference Association, (hereinafter referred to as the "Applicant") were present and testified on behalf of applicant.

The issue in this matter is whether Knox County Parcel Index No. 16-23-300-007 was used for religious purposes during the 2001 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the requested exemption be denied. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that Knox County Parcel Index No. 16-23-300-007 did not qualify for a property tax exemption for the 2001 assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 12)

2. On May 9, 2001, the Department received the request for exemption of Knox County Parcel Index No. 16-23-300-007. On June 14, 2001, the Department denied the requested exemption finding that the property was not in exempt use. On July 1, 2001, the applicant timely protested the denial and requested a hearing. The hearing on January 15, 2002, was held pursuant to that request. (Dept. Ex. No. 1)

3. Applicant acquired Parcel Index No. 16-23-300-006 by a warranty deed dated December 19, 1994. Applicant is a conference association made up of 13 member churches that have voting rights. Applicant owns and operates Faith Bible Camp. Approximately 25 churches send campers to applicant's facility. (Dept. Ex. No. 1; Tr. p. 14)

4. Applicant's camp is approximately 40 acres. The area contains a doublewide mobile home at issue, two ponds, each about an acre in area, as well as a dining hall, basketball and volleyball courts, a chapel, 8 cabins for campers, an athletic team challenge course, a stage and amphitheater, a tractor shed, a large open ball field, and the director's home. (Dept. Ex. No. 1; Tr. p. 15)

5. The only issue in this matter is whether the mobile home assigned Parcel Index No. 16-23-300-007 was used for exempt purposes during the 2001 assessment year. The county taxed the mobile home as real estate. (Tr. pp. 5-11)

6. The parties stipulated that the applicant owns the mobile home and that the applicant is an exempt organization. (Tr. pp. 7-8)

7. The 25-30 church groups that use applicant's camp must sign a declaration that they agree with applicant's religious doctrinal statement. The camp is used for church related

activities such as youth camps, men's or women's retreats, youth retreats, church potlucks, or church dinners. (Dept. Ex. No. 1; Tr. p. 14)

8. Applicant runs the camp with volunteers and one fulltime paid staff member-the director. Groups that use the camp rely on volunteer lifeguards, counselors, cooks, and supervisory personnel. (Tr. pp. 21, 25)

9. The prior owner of the mobile home made an agreement with applicant's board to move the home on to applicant's property. In exchange, the prior owner did maintenance work at the camp. The work was not religious nor an integral part of the activity of applicant's Bible camp. (Tr. pp. 16-17)

10. Applicant purchased the mobile home in November 2000. (Dept. Ex. No. 1; Tr. pp. 16-18)

11. In January 2001 applicant's board of directors decided to offer the mobile home to a couple, Ricky and Martha Stufflebeem, to help with the activities of the camp. The couple executed a "Service in Ministry Position Agreement" with the applicant on April 12, 2001. The couple moved into the mobile home in early to mid April. (Applicant's Ex. No. 2; Tr. pp. 20-21, 46-50, 81)

12. The agreement allows the Stufflebeems to live in the mobile home rent-free and includes a yearly electric and propane allowance of \$1,800.00. In exchange, the Stufflebeems are required to do tasks for the applicant including youth and adult programming, cooking for retreats, cleaning, mowing, plumbing, carpentry and electrical work, counseling, teaching, home repair, pond maintenance, building, roofing, siding, plowing snow, operating equipment, and other camp related activities as they arise. (Applicant's Ex. No. 2)

13. The Stufflebeems are members of Bethel Baptist Church in Galesburg, not one of applicant's 13 member churches. The Stufflebeems have served as leaders of various groups within the church and Ricky has served on the board of deacons. (Applicant's Ex. No. 1)

14. The Stufflebeems have full-time jobs away from applicant's camp. They return from their jobs and assist with camp functions on weekends and evenings when the camp is

operational. (Dept. Ex. No. 1; Applicant's Ex. No. 1; Tr. pp. 76-77)

15. The mobile home is used exclusively for on site staff housing and office space. The on site housing is needed to provide security, beach security, emergency maintenance, and regular maintenance. (Dept. Ex. No. 1)

16. In 2001, applicant's facilities were used for church camp purposes from June 17 through June 28; July 8 through July 13; July 15 through July 20; and July 22 through 27. The campground was also used for applicant's board meetings, a business meeting, a family reunion, a music festival, staff training, applicant's family camp and spring retreat, and a pastor's overnight¹. (Dept. Ex. No. 1)

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including

¹ Applicant offered no explanation of the pastor's overnight; however, it is reasonable to assume the event was for the minister's of applicant's 13 member churches.

bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

The above statute allows an exemption for property used exclusively for religious purposes. Benedictine Sisters of the Sacred Heart v. Department of Revenue, 155 Ill.App.3d 325, 329 (2nd Dist. 1987) Property satisfies the exclusive use requirement of the property tax exemption statutes if it is primarily used for the exempt purpose, even though it may also be used for secular or incidental purposes. McKenzie v. Johnson, 98 Ill.2d 87, 98 (1983) The issue before me is whether applicant's mobile home qualifies for a property tax exemption pursuant to the above statute.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Residences do not normally qualify for property tax exemptions. In fact, property owned by a church and used as a parsonage or monastery was taxable prior to the change in the statutes in 1957. See People ex rel. Carson v. Muldoon, 306 Ill. 234 (1922), People ex rel. Pearsall v. Methodist Episcopal Church, 315 Ill. 233 (1925). The Stuffbeems moved into the mobile home in April 2001. The Stuffbeems have served as leaders of various organizations and

groups within their church. However, no evidence was presented that the Stufflebeems are ministers. Therefore, the mobile home at issue cannot qualify under the above exemption as a parsonage in 2001.

Applicant provides the Stufflebeems the mobile home rent free in exchange for volunteer time spent at applicant's camp. Applicant in its protest stated that the on site housing in the mobile home is needed to provide security, beach security, emergency maintenance, and regular maintenance. The applicant testified that the Stufflebeems assist with the daily activities of applicant's camp after they get off work and on weekends. In Illinois Conference v. Department of Revenue, 165 Ill.App.3d 200 (3rd Dist 1988) the appellate court found that a part of a religious park used for the residence of the caretaker and his wife and for grazing horses as well as religious services was exempt as it was primarily used for religious purposes. The parcel in Illinois Conference was used for morning spiritual meditations, evening vesper services, and was one of the sites of the 1983 Fall Women's Religious Retreat. The property was used regularly for the same types of religious activities that were ongoing throughout the entire park. The applicant herein has not established that type of religious activity took place in the mobile home in 2001.

Rather, the facts in this case are closer to those in Lutheran Child and Family Services v. Department of Revenue, 160 Ill.App.3d 420 (2nd Dist. 1987) where the court held that the residence of the maintenance man and staff housing did not qualify for exemption even though the staff members had historically responded to emergencies at the exempt educational facility. The court held that the building served exclusively as a residence and no educational activities were performed there.

The Stufflebeems have jobs outside their volunteer activities with the applicant. The testimony was that they arrive home from those jobs and go almost immediately to the campground to help monitor games, sit in on the evening chapel meetings, take part in some of the skits, and help out in the canteen area. They eat their evening meal at the camp and are

learning to repair equipment. (Tr. pp. 76-77; Applicant's Ex. No. 3) None of the camp related activities took place in the mobile home on property in question in 2001.

In Girl Scouts of DuPage County v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) the court stated that the residential portion of a site manager's facility and surrounding property was not entitled to a property tax exemption, even though the contiguous properties were used for scouting activities, living in the facility was a condition of employment of the site manager who paid no rent, and the manager was on call 24 hours a day on the five days a week he worked. The court found that the site manager did not perform any of his duties in the residential portion of the facility and the nature of his duties did not require him to live at the camp.

Similarly, the nature of the Stufflebeems duties does not require that they live at the camp. The Stufflebeems do not perform religious activities at the mobile home, rather the testimony establishes that they come home from work and during the times the camp is operational, they help out with activities at the campground.

Applicant has not established that religious activities take place on the property in question. In addition, the Stufflebeems are not ministers and therefore their residence cannot qualify under the parsonage tax exemption provision.

For the foregoing reasons it is recommended that Knox County Parcel Index No. 16-23-300-007 remain on the tax rolls for the 2001 assessment year.

Respectfully Submitted,

Date entered: May 30, 2002

Barbara S. Rowe
Administrative Law Judge